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FILED

October 21, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

Administrative Action

Jerome H. Feldman, M.D.
License # HA41124

FINAL ORDER
OF DISCIPLINE

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent, Jerome H. Feldman, M.D., License No. MA 41124, is a physician licensed in the State of New Jersey since 1982. Respondent was also licensed to practice medicine in Florida. On or about August 26, 2002, Respondent's Florida medical license was revoked.

2. On or about April 10, 2001, a civil Complaint was filed by Charles R. Wilson, United States Attorney, against Respondent in United States District Court, Middle District of Florida, Orlando Division, seeking to recover damages and civil penalties, and alleging that Respondent violated 31 U.S.C. § 3729(a) (1), (2) and (3) in that he and his corporations did knowingly present false or fraudulent claims to the United States, knowingly made, used or caused to be made or used, a false record of statement to get a false or fraudulent claim paid or approved by the United States, and conspired to defraud the United States by getting a false or fraudulent claim allowed or paid.

Specifically, the civil Complaint alleged the following:

a. Respondent was the sole owner, incorporator and a director of Jerome Feldman Community Mental Health Center, Inc. ("JFCMHC"), a for-profit corporation located in Orlando, Florida, which operated as a community mental health center (CMHC);

b. On or about December 10, 1994, Respondent submitted an application on behalf of JFCMHC for certification as a Medicare provider, and knowingly falsely certified in that application that JFCMHC provided all five services required of a CMHC in order to become certified by Medicare, and such certification was granted;

c. Respondent and JFCMHC knowingly offered and paid remunerations (including, but not limited to, paying health insurance premiums, making cash payments and employing relatives of

a facility owner) to the owners of assisted living facilities in exchange for Medicare patient referrals;

d. From approximately December of 1994 through at least June of 1997, Respondent and JFCMHC knowingly submitted and/or caused to be submitted at least one thousand seven hundred and seventy six (1,776) false and fraudulent claims to Medicare for "group therapy" services and five thousand eight hundred and fifteen (5,815) false and fraudulent claims to Medicaid for "group therapy" services provided at JFCMHC;

e. Specifically, Respondent recruited elderly and poor patients for JFCMHC primarily from assisted living facilities, then transported them in a JFCMHC van to JFCMHC, located at times in an abandoned warehouse with no running water or kitchen facilities;

f. These patients spent an average of six to seven hours per day, five days a week at JFCMHC, during which Respondent directed his unlicensed staff to provide one "group therapy" session per day to the Medicaid patients, and five "group therapy" sessions per day to the Medicare patients, without regard to medical necessity;

g. Respondent did not provide or even attend the majority of these sessions, despite representing on the claim forms he submitted that he was the attending physician, and on most occasions was not even present at JFCMHC during these purported sessions;

h. Respondent and JPCMHC knowingly prepared and caused to be prepared false treatment plans and daily and weekly progress notes for Medicare patients; and

i. Respondent and JFCMHC knowingly submitted or caused to be submitted false cost reports to Medicare and Respondent signed the certifications on these cost reports.

3. The aforementioned civil Complaint also alleged that the above-referenced violations damaged the United States government in the amount of \$3.4 million dollars, that Respondent engaged in, among other things, common law fraud and that Respondent obtained money by unjust enrichment.

4. On or about July 10, 2001, a Judgement was entered against Respondent, JFCMHC, another corporation owned by Respondent and two other parties, in the amount of \$46,082,456.00.

5. On or about January 4, 2002, the Florida Department of Health filed an Administrative Complaint against Respondent based on the District Court Judgement, alleging the conduct described in paragraphs 2, 3 and 4 above and that Respondent violated Florida statutes in that Respondent:

- a. Made or filed a report that Respondent knew to be false;
- b. Paid or received a commission, bonus, kickback, or rebate or engaged in a split-fee arrangement with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services,

including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies; and

c. Made deceptive, untrue, or fraudulent representations in or related to the practice of medicine or he employed a trick or scheme in the practice of medicine.

6. On or about August 26, 2002, a Final Order was entered against Respondent by the State of Florida Board of Medicine {"Florida Board"}, after a hearing regarding the Administrative Complaint filed on January 4, 2002, Respondent was found to be in Default, the allegations of fact contained in the Administrative Complaint were adopted and incorporated as findings of fact by the Florida Board, and the conclusions of law alleged and set forth in the Administrative Complaint were adopted and incorporated by reference as Conclusions of law by the Florida Board. Based on the above, Respondent's Florida license to practice medicine and surgery was revoked.

7. In or about 1999, following the initiation of an investigation into Respondent's Medicare and Medicaid billing practices and his treatment of patients, Respondent left his practice, left no forwarding address, and has not responded to subpoenas, summons or notices filed by either the State of Florida or the United States Attorney's office.

CONCLUSIONS OF LAW

1. The above Florida revocation provides grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(g) in that Respondent has had his authority to engage in the activity regulated by the Board revoked by another state for reasons consistent with this provision.

2. The above actions provide grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(f) in that Respondent has been convicted of a crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board.

3. The above actions provide grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(b) in that Respondent engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense.

4. The above actions provide grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(c) and (d) in that Respondent engaged in repeated acts of gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person.

5. The above actions provide grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(n) in that Respondent permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the Board, or aided or abetted an unlicensed person or entity in performing such an act.

6. The above actions provide grounds to take disciplinary action against Respondent's license to practice medicine and surgery in New Jersey pursuant to N.J.S.A. 45:1-21(e) in that Respondent has engaged in professional or occupational misconduct.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending Respondent's license to practice medicine and surgery in the State of New Jersey was entered on September 19, 2003, and a copy was forwarded to Respondent's last known address by means of both regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

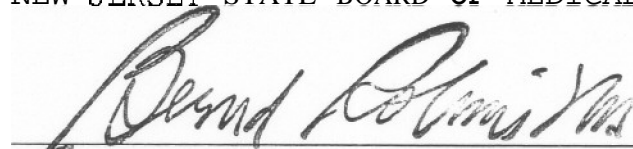
Although the record reflects that the Provisional Order was served upon Respondent, no response has been received to date. Accordingly the Board considered the matter, determined that further proceedings were not necessary and the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 20th day of Oct 2004, ORDERED that:

1. Respondent's New Jersey license is suspended until such time as his Florida license is fully reinstated and Respondent appears before a committee of the New Jersey Board regarding the District Court Judgement described above in paragraph 4 of the Findings of Facts.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By:



Bernard Robins, M.D., F.A.C.P.
Board President